

SEARCHLIGHT FOIA REQUEST

DOCUMENT NUMBER

33

(Withhold)

(b)5 – Draft

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY LEASE/GRANT

SERIAL NUMBER N-084626

1. As approved by the Record of Decision for the *Searchlight Wind Energy Project (N-84626)*, dated _____, a right-of-way lease/grant is hereby issued pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761 et seq.) and the Bureau of Land Management right-of-way regulations (43 CFR Part 2800) and amendments thereto.
2. Nature of Interest:
 - a. By this instrument, the holder:

Searchlight Wind Energy, LLC
71 Allen St., Ste. 101
Rutland, VT 05701-4570

receives a right to use and occupy the following described public lands to construct, operate, maintain, and decommission a 200-MW wind energy power project, including associated facilities as described in the approved Plan of Development (POD), incorporated herein:

See attached legal description and map (Exhibit A).

The instrument issued herein consists of 87 Wind turbine generators (WTGs), including concrete foundations, tubular steel towers, nacelles (i.e., main WTG bodies), and rotor assembly, pad-mounted transformers (one located at the base of each WTG tower), underground electrical collection system (34.5 kV), underground communications system, two onsite electrical substations and 6.1-mile overhead transmission line connecting the substations, 2.6-mile overhead transmission line (230 kV) connecting to Western's proposed switching station, four meteorological masts, operations and maintenance building, two temporary laydown areas, temporary concrete batch plant, temporary portable rock crusher, access road, Western's proposed switching station and ancillary facilities

The total footprint covered by this instrument, consists of 9,331 acres, more or less.

- c. This instrument shall expire on December 31, 2042, unless, prior thereto, it is relinquished, abandoned, or terminated pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed by the Authorized Officer. The holder is required to submit an application for renewal at least 120 calendar days prior to the expiration date of this instrument. The Authorized Officer will review the application for renewal to ensure the holder is complying with the terms, conditions, and stipulations of this instrument and applicable laws and regulations. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the Authorized Officer deems necessary to protect the public interest.
- e. Notwithstanding the renewal, expiration, relinquishment, abandonment, or termination of this instrument, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the renewal, expiration, relinquishment, abandonment, or termination of this authorization.
- f. The Authorized Officer retains the right of access to the lands included within the right-of-way at any time and may enter any facility on the right-of-way in accordance with 43 CFR 2805.15(a). The holder shall pay monitoring fees in accordance with 43 CFR 2805.16 for the reasonable costs incurred in the inspection and monitoring of construction, operation, maintenance, and decommissioning of the right-of-way.
- g. This instrument is issued subject to valid existing rights in accordance with 43 CFR 2805.14.

3. Rental:

- a. For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management the fair market value of the right-of-way based on the per megawatt of the total anticipated installed capacity, as determined by the Authorized Officer unless specifically exempted from such payment by law or regulation. Provided, however, that the rental may be adjusted by the Authorized Officer, whenever necessary, to reflect changes in fair market value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

The rental provisions of this authorization may also be modified consistent with the provisions of any regulatory changes or pursuant to the provisions of any new or revised statutory authorities.

- b. The rental fee will be \$4,155 per megawatt of the total anticipated installed capacity of the wind energy project on public land based on the approved POD, a capacity factor of 30 percent, a Federal rate of return of 5.27 percent, and an average purchase price of \$0.03 per kilowatt hour. The Federal rate of return is based on the 10-year average of the 30-year Treasury bond yield (January 1998 to January 2008). The rental fee is a fixed annual BLM-wide rent based on the following formula:

Annual rent = (Anticipated total installed capacity in kilowatts on public land as identified in the approved POD) x (8760 hours per year) x (30 percent capacity factor) x (5.27 percent federal rate of return) x (\$0.03 average price per kilowatt hour).

The annual rental fee will be phased in as follows:

First year	- 25 percent of the total rental fee or \$1,039 per megawatt
Second year	- 50 percent of the total rental fee or \$2,078 per megawatt
Third year	- 100 percent of the total rental fee or \$4,155 per megawatt

The full annual rental fee will apply at any time prior to 3 years upon the start of commercial operations of the project. The rental fee is paid annually, in advance, on a calendar-year basis consistent with the regulations (43 CFR 2806.12). The BLM will not assess a separate turbine installation fee (an additional one-time payment for each turbine installation), a production rental fee, or other fees as part of the wind energy rental fee. Any separate linear right-of-way authorizations issued for offsite facilities to support the wind energy project, such as electrical transmission lines, will be subject to the linear right-of-way rental provisions of 43 CFR 2806.20.

All wind energy right-of-way holders are subject to rent in accordance with this IM, unless they are specifically exempt from rent by statute or regulation. Some holders or facilities may be exempt from rent pursuant to the Rural Electrification Act of 1936, as amended (43 CFR 2806.14(d)).

4. Bond:

- a. A Performance and Reclamation bond, in an amount determined by the Authorized Officer, shall be obtained by the holder to ensure compliance with the terms and conditions of this instrument. The Authorized Officer will require that the holder submit a Reclamation Cost Estimate for review and to assist the Authorized Officer in determining the bond amount. The holder shall provide the

Authorized Officer proof that a bond in the required amount has been obtained by such date as specified by the Authorized Officer. The amount of the bond will be limited to the anticipated liabilities associated with the activities approved by the Notice to Proceed. If the Notice to Proceed is limited to only an initial phase of development or activity, the bond amount will be limited to that phase or activity. The bond amount would increase with the issuance of a Notice to Proceed for future phases of development or additional activities. The bond must be maintained in effect until removal of improvements and restoration of the right-of-way has been accepted by the Authorized Officer. Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities (notes, bills, or bonds) equal in value to the bond amount, surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the Bureau of Land Management (BLM), irrevocable letters of credit payable to the BLM issued by financial institutions that have the authority to issue letters of credit and whose operations are regulated and examined by a federal agency, or a policy of insurance that provides BLM with acceptable rights as a beneficiary and is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction and whose insurance operations are regulated and examined by a federal or state agency. The Authorized Officer will not accept a corporate guarantee as an acceptable form of bond. The Authorized Officer will review the bond on an annual basis to ensure adequacy of the bond amount. The bond will also be reviewed at the time of any assignment, modification, or renewal of this instrument. The Authorized Officer may increase or decrease the bond amount at any time during the term of the right-of-way authorization, consistent with the regulations.

- b. The holder agrees that any bond held as security for holder's performance of the terms and conditions of this instrument may, upon failure on the holder's part to fulfill any of the requirements herein set forth or made a part hereof, be retained by the United States to be applied as far as may be needed to the satisfaction of the holder's obligations assumed hereunder, without prejudice whatever to any other rights and remedies of the United States.
- c. Should the bond delivered under this instrument become unsatisfactory to the Authorized Officer, the holder shall, within 30 calendar days of demand, furnish a new bond. In the event of noncompliance with the terms and conditions of this instrument, the BLM will notify the holder that the surety or other bond instrument is subject to forfeiture and will allow the holder 15 calendar days to respond before action is taken to forfeit the bond and suspend or terminate the authorization.

5. Terms and Conditions:

- a. This instrument is issued subject to the holder's compliance with all applicable laws and regulations and, in particular, with the regulations contained in Title 43 Code of Federal Regulations Part 2800, including the terms and conditions required by 43 CFR 2805.12. Failure of the holder to comply with applicable law or regulations or any terms, conditions, or stipulations of this instrument shall constitute grounds for suspension or termination thereof. The Authorized Officer may change the terms and conditions of this instrument as a result of changes in legislation, regulations, or as otherwise necessary to protect public health or safety or the environment in accordance with 43 CFR 2805.15(e).
- b. The right-of-way Stipulations (Exhibit B), attached hereto, and the approved Plan of Development, dated _____, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.
- c. The holder shall perform all operations in a good and workmanlike manner, consistent with the approved Plan of Development, so as to ensure protection of the environment and the health and safety of the public. The Authorized Officer may order an immediate temporary suspension of operations, orally or in writing, in accordance with 43 CFR 2807.16 to protect public health or safety or the environment if the Authorized Officer determines that the holder has violated one or more of the terms, conditions, or stipulations of this instrument. An immediate temporary suspension order is effective until the holder receives a written Notice to Proceed from the Authorized Officer.
- d. The holder will not initiate any construction or other surface disturbing activities on the right-of-way without prior written authorization of the Authorized Officer. Such authorization will be a written Notice to Proceed (Form 2800-15) issued by the Authorized Officer or his/her delegated representative. Each Notice to Proceed will authorize construction or use and occupancy only as therein expressly stated and only for the particular location or use and occupancy therein described, i.e., a construction phase or site location. The Authorized Officer will issue a Notice to Proceed subject to such terms and conditions as deemed necessary when the design, construction, use, occupancy, and operation proposals are in conformity with the terms and conditions of this instrument.
- e. The holder shall start construction of the initial phase of development within 12 months after issuance of a Notice to Proceed but no later than 24 months after the effective date of the issuance of this right-of-way lease/grant. The holder shall complete construction within the timeframes approved in the Plan of Development, but no later than 24 months after start of construction, unless the project has been approved for phased development as provided for in paragraph (5)(f).

- f. During operations, the holder shall maintain all onsite electrical generation equipment and facilities in accordance with the design standards in the approved Plan of Development. Any idle, improperly functioning, or abandoned equipment or facilities that have been inoperative for any continuous period of 3 months or more must be repaired, placed into service, and/or removed from the site within 30 calendar days from receipt of a written Notice of Failure to Ensure Diligent Development from the Authorized Officer, unless the holder is provided an extension of time by the Authorized Officer. To obtain an extension of the 30-day deadline, the holder must submit a written request to the Authorized Officer and show therein good cause for any delays in repairs, use, or removal; an estimate when corrective action will be completed; and evidence of diligent operation of the equipment and/or facilities.
- g. Failure of the holder to comply with any diligent development provision of this instrument may cause the Authorized Officer to suspend or terminate the authorization in accordance with 43 CFR 2807.17 - 2807.19, and use the posted Performance and Reclamation bond to cover the costs for removal of any equipment and/or facilities. The Authorized Officer will provide the holder a written Notice of Failure to Ensure Diligent Development prior to the suspension or termination of the authorization. The holder will be provided an opportunity to correct any noncompliance in accordance with 43 CFR 2807.18 or submit a written request to the Authorized Officer for an extension of the timelines in the approved Plan of Development.
- h. Upon termination by the Authorized Officer or expiration of this instrument, all improvements shall be removed from the public lands within 180 calendar days or otherwise disposed of as provided for in the approved Plan of Development, or as directed by the Authorized Officer.
- i. This instrument shall, at a minimum, be reviewed by the Authorized Officer at the end of the 10th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that this instrument may be reviewed at any time deemed necessary by the Authorized Officer in accordance with the regulations.
- j. This instrument may be assigned consistent with the regulations, but all assignments are subject to approval by the Authorized Officer. In addition, the qualifications of all assignees must comply with the requirements of the regulations. A partial assignment of this instrument shall not be approved if such action would hinder the Authorized Officer's management of the authorization or the associated public lands.
- k. Upon the request of the Authorized Officer, the holder shall provide access to environmental, technical, and financial records, reports, and other information related to construction, operation, maintenance, and decommissioning of the

right-of-way. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law. Failure of the holder to cooperate with such request, provide data, or grant access to such records, reports, and information may, at the discretion of the Authorized Officer, result in suspension or termination of the right-of-way lease/grant in accordance with the regulations.

IN WITNESS WHEREOF, The undersigned agree to the terms, conditions, and stipulations of this right-of-way lease/grant.

(Signature of Holder)

Timothy Z. Smith

(Title)

(Title) Southern Nevada District Manager

(Date)

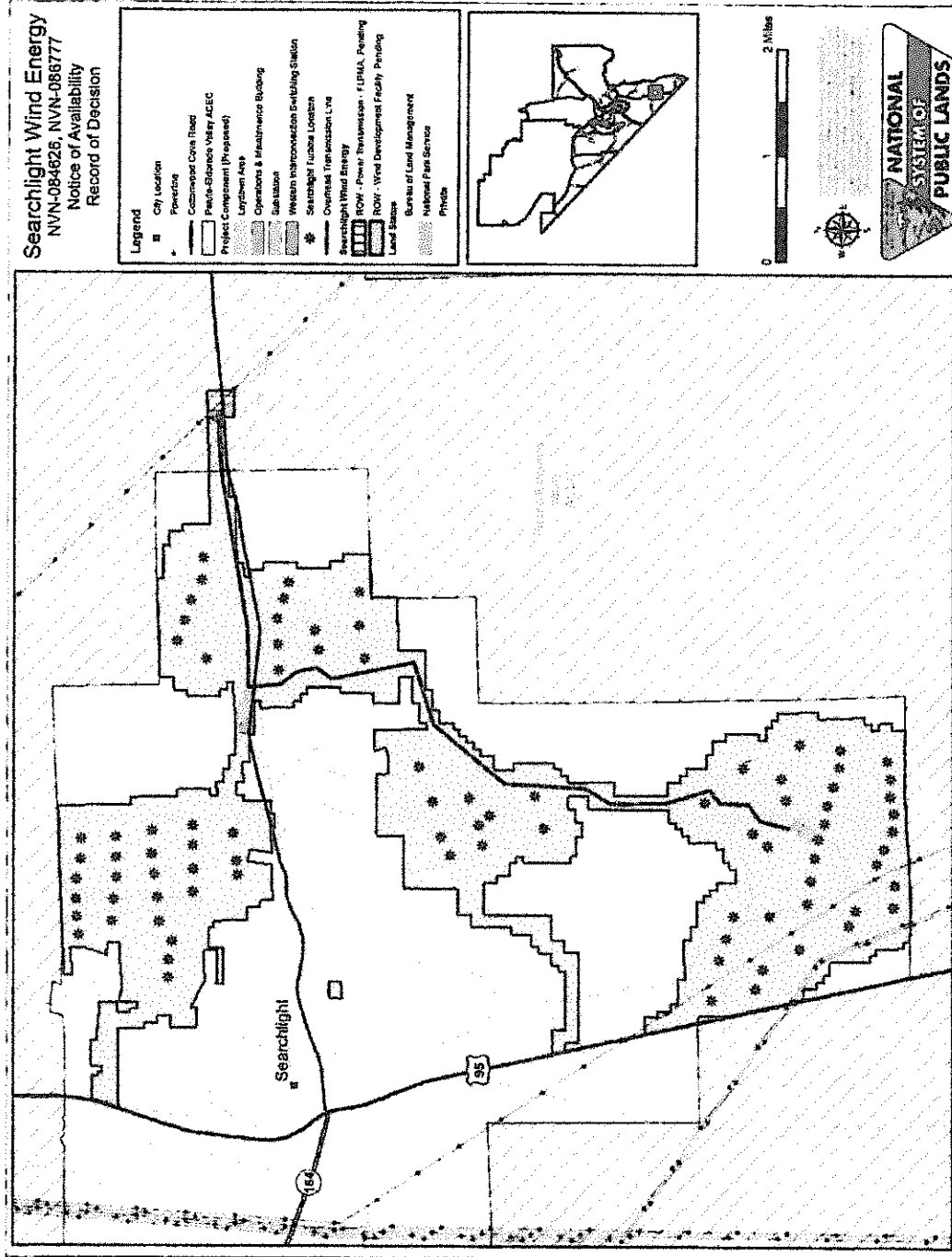
(Effective Date of Right-of-Way Lease/Grant)

Attachments

Exhibit A: Legal Description and Map

Exhibit B: Stipulations

EXHIBIT A MAP



SWE Legals

Mount Diablo Meridian

T. 28 S., R 63 E.,

sec. 23, lots 3 to 4 inclusive, $E\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$ a portion of public lands lying east of the easterly right-of-way NVCC-020733, $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$ a portion of public lands lying east of easterly boundary right-of-way NVCC-020733, $E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$;

sec. 24, lots 1, 2, and 4 to 7 inclusive, $NE\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$;

sec. 25, lots 1 to 2 inclusive, $NE\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$;

sec. 26, lot 1.

T. 29 S., R. 63 E.,

sec.1, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 11, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ that portion of public lands lying east of the easterly right-of-way of NVCC 020845, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 12, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 13, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845;

sec. 24, NE $\frac{1}{4}$,

NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ that portion lying east of the easterly right-of-way of S.R. 95 NVCC-20845 , SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

sec. 25, NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 28 S., R. 64 E.,

sec. 19, lots 1 to 4 inclusive, $W\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$;

sec. 26, $N\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$;

sec. 27, $SW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$;

sec. 28, $NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}$;

sec. 29, $E\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$;

sec. 30, lots 1 to 4 inclusive, $W\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$ LESS MINING CLAIM, $N\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$;

sec. 31, $N\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$,

sec. 32, $NE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$;

sec. 33, All;

sec. 34, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$.

T. 29 S., R. 64 E.,

sec. 4, lots 1 to 4 inclusive, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;

sec. 5, lots 2 to 4 inclusive, SW¹/₄NE¹/₄, SE¹/₄SW¹/₄SE¹/₄NE¹/₄, S¹/₂SE¹/₄SE¹/₄NE¹/₄, SW¹/₄NW¹/₄, SE¹/₄NW¹/₄, SW¹/₄, N¹/₂NE¹/₄NE¹/₄SE¹/₄, SW¹/₄NE¹/₄NE¹/₄SE¹/₄, NW¹/₄NE¹/₄SE¹/₄, W¹/₂SW¹/₄NE¹/₄SE¹/₄, NW¹/₄SE¹/₄, N¹/₂NE¹/₄SW¹/₄SE¹/₄, SW¹/₄NE¹/₄SW¹/₄SE¹/₄, NW¹/₄SW¹/₄SE¹/₄, N¹/₂SW¹/₄SW¹/₄SE¹/₄, SW¹/₄SW¹/₄SW¹/₄SE¹/₄;

sec. 6, lot 1 and 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$:

sec. 7, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 8, N¹/₂NE¹/₄NW¹/₄, SW¹/₄NE¹/₄NW¹/₄, NW¹/₄NW¹/₄, SW¹/₄NW¹/₄, SW¹/₄NE¹/₄SE¹/₄NW¹/₄, W¹/₂SE¹/₄NW¹/₄, W¹/₂SE¹/₄SE¹/₄NW¹/₄, W¹/₂NE¹/₄NE¹/₄SW¹/₄, W¹/₂NE¹/₄SW¹/₄, NW¹/₄SE¹/₄NE¹/₄SW¹/₄, NW¹/₄SW¹/₄, E¹/₂SW¹/₄SW¹/₄, N¹/₂NW¹/₄SW¹/₄SW¹/₄, NW¹/₄NW¹/₄SE¹/₄SW¹/₄;

sec. 17, NW¹/₄NW¹/₄, W¹/₂SW¹/₄NW¹/₄, W¹/₂NW¹/₄SW¹/₄, SW¹/₄SW¹/₄,
NW¹/₄SW¹/₄SE¹/₄SW¹/₄, S¹/₂SW¹/₄SE¹/₄SW¹/₄;

sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 19, lots 1 to 4 inclusive, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

sec. 20, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 29, NW¹/₄NE¹/₄NE¹/₄, N¹/₂SW¹/₄NE¹/₄NE¹/₄, SW¹/₄SW¹/₄NE¹/₄NE¹/₄, NW¹/₄NE¹/₄, SW¹/₄NE¹/₄, W¹/₂NW¹/₄SE¹/₄NE¹/₄, W¹/₂SW¹/₄SE¹/₄NE¹/₄, NW¹/₄, SW¹/₄, W¹/₂NW¹/₄NE¹/₄SE¹/₄, N¹/₂NW¹/₄SE¹/₄, SW¹/₄NW¹/₄SE¹/₄, N¹/₂SE¹/₄NW¹/₄SE¹/₄, SW¹/₄SE¹/₄NW¹/₄SE¹/₄, N¹/₂SW¹/₄SE¹/₄, SW¹/₄SW¹/₄SE¹/₄, W¹/₂SE¹/₄SW¹/₄SE¹/₄;

sec. 30, ALL.

EXHIBIT "B"

STIPULATIONS

1. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the approved Plan of Development, as amended or supplemented by approval of the Authorized Officer. Any surface disturbing activity, additional construction, or use that is not in accord with the approved Plan of Development shall not be initiated without the prior written approval of the Authorized Officer. A copy of the complete right-of-way lease/grant, including all stipulations and approved Plan of Development, shall be made available on the right-of-way area during construction, operation, and decommissioning. Noncompliance with the above will be grounds for immediate temporary suspension of activities if it constitutes a threat to public health or safety or the environment.
2. The holder will comply with the approved applicant proposed measures and mitigation measures located in Appendix E and incorporated by reference in the approved Record of Decision signed March 13, 2013.
3. Any cultural resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

The holder shall immediately notify the BLM Authorized Officer of any paleontological resources discovered as a result of operations under this authorization. The holder shall suspend all activities in the vicinity of such discovery until notified to proceed by the Authorized Officer, and shall protect the locality from damage or looting. The Authorized Officer will evaluate, or will have evaluated, such discoveries as soon as possible, but not later than 5 working days after being notified. Appropriate measures to mitigate adverse effects to significant paleontological resources will be determined by the Authorized Officer after consulting with the holder. The holder is responsible for the cost of any investigation necessary for the evaluation and for any mitigation measures, including museum curation.

The holder may not be required to suspend operations if activities can avoid further impacts to a discovered locality or be continued elsewhere, however not suspending operations must be approved by the Authorized Officer.

Although unlikely, any human remains that may be discovered during authorized activities shall be protected by all Project personnel and construction crew members by following the procedures set forth in Section VI of the October 26, 2009, State Protocol

Agreement between the BLM and the Nevada State Historic Preservation Office. This includes at a minimum: 1) it is the responsibility of the holder to notify the BLM authorized contracting officer and archaeologist immediately, 2) cease all construction activities within a 100 meter buffer area, and 3) to ensure protection of the discovery from further damage or vandalism until a BLM-authorized archaeologist evaluates the nature of the materials. If needed, mitigation procedures will be developed by the BLM in consultation with the State Historic Preservation Office.

4. SWE will comply with the terms and conditions as identified in the State Historic Preservation Office (SHPO) Programmatic Agreement (PA), signed on February 8, 2013.
5. The holder shall comply with the construction practices and mitigating measures established by 33 CFR 323.4, which sets forth the parameters of the "nationwide permit" required by Section 404 of the Clean Water Act. If the proposed action exceeds the parameters of the nationwide permit, the holder shall obtain an individual permit from the appropriate office of the Army Corps of Engineers and provide the Authorized Officer with a copy of same. Failure to comply with this requirement shall be cause for suspension or termination of the right-of-way lease/grant.
6. All powerlines shall be designed and constructed to be avian-safe in accordance with the standards outlined in "Suggested Practices for Avian Protection on Power Lines: the State of the Art in 2006" (APLIC 2006). Unless otherwise agreed to in writing by the Authorized Officer, powerlines shall also be constructed in accordance with standards outlined in "Suggested Practices for Raptor Protection on Powerlines", Raptor Research Foundation, Inc., 1996. The holder shall assume the burden and expense of proving that pole designs not shown in the raptor protection publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the Authorized Officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.
7. The holder will arrange and attend preconstruction conference(s) prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way or specific construction phase of the right-of-way as specified by the Authorized Officer. The holder and/or his representatives will attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, will also attend this conference to review the stipulations of the authorization, including the Plan of Development, as applicable. The holder shall notify the Authorized Officer of the schedule for any preconstruction conference at least 10 calendar days in advance of the preconstruction conference or such timeframe as may be required by the Notice to Proceed.
8. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the Authorized Officer. The holder's representative shall be available for communication with the Authorized Officer within a reasonable time

when construction or other surface disturbing activities are underway.

9. The holder shall protect all survey markers found within the right-of-way. Survey markers include, but are not limited to, Public Land Survey System line and corner markers, other property boundary line and corner markers, and horizontal and vertical geodetic monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where any of the above survey markers are obliterated or disturbed during operations, the Authorized Officer will determine how the marker is to be restored. The holder will be instructed to secure the services of a registered land surveyor or informed that an official survey will be executed by the Bureau of Land Management (BLM). All surveying activities will be in conformance with the Manual of Surveying Instructions and appropriate State laws and regulations. Surveys by registered land surveyors will be examined by the Authorized Officer and the BLM State Office Chief Cadastral Surveyor for conformance with the Manual of Surveying Instructions and State laws and regulations before being filed in the appropriate State or county offices of record. The holder shall be responsible for all administrative and survey costs.
10. Use of pesticides and herbicides shall comply with all applicable Federal and State laws. Pesticides and herbicides shall be used only in accordance with their registered uses within limitations imposed by the Secretary of the Interior. Prior to the use of the pesticides, the holder shall obtain from the Authorized Officer, written approval of a Pesticide Use Proposal Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, locations of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer.
11. Only those chemicals (pesticides and herbicides) listed on the BLM approved label list are authorized for use on public lands. A Pesticide Use Proposal must be submitted for each chemical used, and it cannot be used until approval has been obtained in writing from the Authorized Officer. The proposal needs to identify any surfactants or dyes used in the spraying operation. Applicator(s) of chemicals used must have completed pesticide certification training and have a current up to date Certified Pesticide Applicator's License. Pesticide and herbicide application records for the areas and acres treated must be submitted to the Authorized Officer each year. This includes the following:

- Brand or Product name
- EPA registration number
- Total amount applied (use rate #A.I./acre)
- Date of application
- Location of application
- Size of area treated
- Method of treatment (air/ground)
- Name of applicator
- Certification number and dates

Costs to treatment
Amount of surfactants or dyes used in spraying operation

The record information must be recorded no later than 14 calendar days following the pesticide or herbicide application and must be maintained for ten years.

12. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. A litter policing program shall be implemented by the holder which covers all roads and sites associated with the right-of-way.
13. The holder shall comply with all applicable Federal, State, and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous materials, as defined by 43 CFR 2801.5 that will be used, produced, or transported on or within the right-of-way, or used in the construction, operation, maintenance, or decommissioning of the right-of-way or any of its facilities. The holder agrees in accordance with 43 CFR 2807.12(e) to fully indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq., or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

The holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.

The holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the right-of-way or potentially affecting the right-of-way of which the holder is aware.

As required by law, the holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the right-of way.

14. Within 120 calendar days of completion of construction, the holder shall submit to the Authorized Officer, as-built drawings and a certification of construction verifying that the facility has been constructed in accordance with the design, plans, specifications, and

applicable laws and regulations.

Within 90 days of construction completion, the holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the right-of-way:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy better, in UTM NAD 83; Zone 11; ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.

CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

15. The holder shall be liable for all fire suppression costs resulting from fires caused during construction or operations. All guidelines and restrictions imposed by agency fire control officials will be followed.

The following fire prevention measures shall be implemented by the holder or its contractor during construction:

- Maintain a list of all relevant firefighting authorities near the project site. The closest resources to respond to a wild land fire threatening the community of Searchlight would come from Clark County Fire Department Station 75 in Searchlight;
- Have and maintain available fire suppression equipment in all construction areas, including but not limited to: water trucks, potable water pumps, and chemical fire extinguishers. Ensure an adequate supply of fire extinguishers for welding and brushing crews;
- Include mechanisms for fire suppression in all heavy equipment, including fire extinguishers and spark arresters or turbo-charging (which eliminates sparks in exhaust);
- Remove any flammable wastes generated during construction on a regular basis;
- Vegetation clearing shall be accomplished in a manner that reduces vegetation and does not create a fire hazard;
- Store all flammable materials used at the construction site;

- Allow smoking only in designated smoking areas; and
 - Require all work crews to park vehicles away from flammable vegetation, such as dry grass and brush. At the end of each workday, heavy equipment should be parked over mineral soil, asphalt, or concrete, where available, to reduce the chance of fire.
16. The holder shall, prior to construction activities, provide the Authorized Officer a Performance and Reclamation bond, a Site Restoration Plan, a Groundwater Monitoring Plan, and a Traffic Management Plan. Prior to construction, and upon approval of the Plan of Development, acceptance of the Performance and Reclamation bond, approval of the third-party Compliance Inspection Contractor, approval of the Site Restoration Plan, approval of the Groundwater Monitoring Plan, and approval of the Traffic Management Plan, a Notice to Proceed will be issued by the Authorized Officer.
17. The holder shall submit for approval to the Authorized Officer a Revised Plan of Development that is reflective of the activities authorized in the right-of-way lease/grant. The holder shall ensure that the following elements are contained within the Revised Plan of Development:

- Development of the O&M building and its associated septic system would require a wellhead protection plan. The State of Nevada's Wellhead Protection Ordinance encourages protection of public health and water supplies by ensuring there are appropriate distances between wells and potential sources of contamination (Clark County 2008).

All project construction will follow site-specific soil erosion and sediment control measures described in a Stormwater Pollution Prevention Plan (SWPPP) prepared and implemented in accordance with Nevada Division of Environmental Protection Storm Water General Permit NVR10000.

- Erosion and sedimentation control measures to be used to minimize impacts during the life of the project. At a minimum, this will include: soil stabilization measures to offset loss in vegetation, biannual and post-storm monitoring of erosion and sedimentation, annual monitoring and adaptive management actions if erosion and sedimentation control measures are found to be insufficient to control surface water at the site. Any changes must be approved in advance by the Authorized Officer.
- A storm water monitoring and response plan to be used to minimize impacts from flood damage during the life of the project. At a minimum, this plan shall include: visual surveys of all structures for scour following major storm events, visual surveys of fencing to check for damage and/or debris, cleanup of broken equipment if failures do occur, inspection and cleanup of downstream areas, if debris is transported off site, and adaptive management of flood protection and

erosion actions if the monitoring plan reveals routine damage to project structures due to flooding. Any changes must be approved in advance by the Authorized Officer.

- Measures to reduce night lighting in all natural areas to avoid unnecessary visual disturbance to wildlife. Methods to be implemented include, but are not limited to, shielding methods, and/or reduced lumen intensity .
18. The holder shall develop, and submit for approval by the Authorized Officer, a Site Restoration Plan that describes measures to mitigate and compensate for special status plants such as transplanting/re-seeding and/or compensation in consultation with appropriate agencies (USFWS, BLM, and/or NDOW). The plan will also outline the protocol for the re-vegetation of the portions of the project area that are classified as temporarily impacted. The plan will provide a matrix showing how the holder will address each species considered sensitive in terms of mitigation type (e.g., seed collection, salvage, fencing certain populations). This will include clearly describing how cacti and yucca species will be salvaged, stored, and re-established. The plan will also define success criteria in accordance with agency guidance and outline mitigation measures to be implemented if the success criteria are not met.
19. The holder shall fund and implement a third party Compliance Program with the Authorized Officer. The Program will include the holder hiring an independent third-party Compliance Inspection Contractor, to be approved by the Authorized Officer, to insure compliance with the terms, conditions and stipulations of this lease/grant, N-84626. All questions or concerns regarding compliance with the terms, conditions, and stipulations of this right-of-way lease/grant shall be directed to the Authorized Officer.
20. The holder will produce, and submit for approval by the Authorized Officer, a Traffic Management Plan that identifies Best Management Practices (BMP) to minimize construction-related traffic impacts. Specifically, the BMPs shall ensure an adequate flow of traffic in both directions by providing sufficient signage to alert drivers of construction zones, notifying emergency responders prior to construction, conducting community outreach, and control traffic around impacted intersections. The Traffic Management Plan shall also include the following:
- Consideration of the equipment dimensions and weight; maximum axle loads; and local regulations.
 - Obtaining requisite transportation permits.
 - Providing escort for components as required by the length, weight, or width.
 - To further reduce effects to the US-95/Cottonwood Cove Road (SR 164) intersection, the Plan will identify an alternate access route to the Proposed Project site during peak construction if possible.

- Truck traffic will be phased throughout construction.
- Truck traffic will be restricted to the roadways developed or upgraded for the Proposed Project.
- Existing unimproved roads not associated with the Proposed Project would be used in emergency situations only.
- Deliveries of materials will be scheduled for off-peak hours to reduce effects during periods of peak traffic. Truck traffic will use designated truck routes when arriving to and departing from the proposed work sites.
- Providing alternate transportation routes should temporary road closures be required.
- The Applicant will encourage the construction workforce to carpool or vanpool.
- Signs and public notices regarding construction work will be distributed before disruptions occur and will identify detours to maintain access.
- To minimize the effects on local and Lake Mead traffic the Transportation Plan will mandate the use of flagmen or escort vehicles to control and direct traffic flow, and provide schedules that show roadway work will be done during periods of minimum traffic flow.
- Ongoing ground transportation planning will be conducted to evaluate road use, minimize traffic volume, and ensure that roads are maintained adequately to minimize associated impacts.

21. The holder shall ensure that all structures installed as part of the project will be color treated to reduce contrast with the surrounding environment excepting WTG's, A-Frames, and buss works. Structures to be color treated include the interconnection transmission towers, any walls surrounding switchyard substation facilities, the operations and maintenance structure, fences installed around the project, water tanks, and any other walls or enclosed structures installed as part of the project

The holder will work with the Authorized Officer to select the appropriate color from the BLM approved Standard Environmental Color chart. All color treatments shall be approved by the Authorized Officer prior to any application.

The holder shall use landscape screening to reduce the visibility of the project in locations where viewers have unobstructed foreground views of the project.

The holder shall consider location and type of lighting to minimize any potential light pollution to the greatest extent practicable. Measures may include, but not be limited to,

light hoods/shields, directional lighting, and minimum required brightness, setbacks from project perimeter, motion lights, and 'as-needed' usage.

22. The holder shall salvage and/or purchase, as directed by BLM, all cactus and yucca plants from temporary and permanent impact areas within the right of way lease/grant. The salvage requirements will be described in the project revegetation plan and will be approved by the BLM botanist prior to construction.
23. The holder shall conduct all construction activity (including, but not limited to, truck deliveries, pile driving, and vibration equipment use) only during daytime hours from sunrise to sunset near residential or recreational areas. All other areas are subject to Clark County ordinance for construction activities for noise.
24. The holder shall turn off idling equipment when not in use.
25. The holder shall notify adjacent residents in advance of construction work through public mailings and signs directed toward residents, landowners, and recreational users within one mile of the site prior to commencement of construction. The notice shall state specifically where and when construction activities will occur in the area. The holder shall also provide a communication line or procedures to enable individuals to contact the contractor in the event that construction noise levels affect them. The holder shall provide the Authorized Officer with the mailing list and a copy of the notice that was mailed immediately following the mailing.
26. The holder shall install acoustic barriers around stationary construction noise sources as necessary to maintain a noise level not to exceed 43 dba at the property boundary closest to the nearest residence.
27. The holder shall ensure that construction equipment is maintained per manufacturers' recommendations. The holder shall ensure that all equipment is adequately muffled and maintained, to include: use of noise controls on standard construction equipment and shielding on impact tools, use of broadband noise backup alarms on mobile equipment, and installation of mufflers on exhaust stacks of all diesel and gas-driven engines.
28. The holder shall ensure proper installation of transformer equipment by: installing transformers within enclosures, using sound-dampening pads between each transformer and the mounting surface, using flexible conduit couplings between each transformer and the associated wiring system, and mounting the transformers on surfaces with a large mass to avoid amplifying the sound.
29. The holder shall ensure that imported soils are free from contaminants before use on the site. At the request of the Authorized Officer, soils shall be tested (at the cost of the holder) to ensure that hazardous materials are not present within the imported fill.
30. The holder shall ensure that imported soils are consistent in texture and drainage characteristics to existing on-site soils before use on the site. At the request of the

Authorized Officer and the expense of the holder, soils will be tested to ensure they are of the same soil type as pre-construction soils.

31. The holder will actively seek to avoid placement of infrastructure in drainages and commit to the use of existing natural washes, with adequate buffers to the greatest extent possible. If drainages cannot be avoided by infrastructure placement, the holder shall design drainage crossings to accommodate estimated peak flows and ensure that natural volume capacity can be maintained throughout construction and upon post-construction restoration
32. The holder shall ensure that all steep-walled trenches, auger holes, or other excavations are covered at the end of each day. Fencing will be maintained around the covered excavations at night. For open trenches, earthen escape ramps will be maintained at intervals of no greater than 0.25 mile. A biological monitor will inspect all trenches, auger holes, or other excavations a minimum of twice per day, and also immediately prior to back-filling. Any species found will be safely removed and relocated out of harm's way, using a pool net when applicable. For safety reasons, biological monitors will, under no circumstance, enter open excavations.
33. The holder shall ensure that a qualified biologist will be notified if badgers are observed within the project area during construction activities. Work will immediately be stopped in the area if the biologists find occupied burrows within 100 feet of construction activities during preconstruction surveys. Contact BLM Wildlife Biologist for further guidance.
34. The holder will in order to prevent undue harm; habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 1st through August 31st.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge
35. The holder shall consult with the BLM, USFWS, and NDOW regarding conservation measures to be implemented to avoid impacts on desert bighorn sheep during construction. Avoidance and minimization measures could include such elements as preconstruction surveys, biological monitoring, and timing construction activities to avoid bighorn sheep active seasons.
36. The holder shall ensure that all steep-walled trenches, auger holes, or other excavations are covered at the end of each day. Fencing will be maintained around the covered excavations at night. For open trenches, earthen escape ramps will be maintained at intervals of no greater than 0.25 mile. A biological monitor will inspect all trenches,

auger holes, or other excavations a minimum of twice per day, and also immediately prior to back-filling. Any species found will be safely removed and relocated out of harm's way, using a pool net when applicable. For safety reasons, biological monitors will, under no circumstance, enter open excavations.

37. The holder shall implement a Hazardous Materials Handling Management Program or incorporate within their other program the item outlined below. Hazardous materials used and stored onsite will be managed according to the specifications outlined below as follows:

- Hazardous Materials Handling Program. A project-specific hazardous materials management program will be developed prior to initiation of construction. The program will outline proper hazardous materials use, storage, and disposal requirements. The program will identify types of hazardous materials to be used during construction activities. All personnel will be provided with project-specific training. This program will be developed to ensure that all hazardous materials are handled in a safe and environmentally sound manner. Employees will receive hazardous materials training and will be trained in: hazardous waste procedures; spill contingencies; waste minimization procedures; and treatment, storage, and disposal facility (TSDF) training in accordance with OSHA Hazard Communication.
- Transport of Hazardous materials. Hazardous materials that will be transported by truck include fuel (diesel fuel and gasoline), and oils and lubricants for equipment. Containers used to store hazardous materials will be properly labeled and kept in good condition. Written procedures for the transport of hazardous materials used will be established in accordance with U.S. Department of Transportation (USDOT), and Nevada Department of Transportation (NDOT) regulations. A qualified transporter will be selected to comply with federal and state transportation regulations.
- Fueling and Maintenance of Construction Equipment: Written procedures for fueling and maintenance of construction equipment will be prepared prior to construction. Vehicles and equipment will be refueled on site or by tanker trucks. Procedures will include the use of drop cloths made of plastic, drip pans, and trays to be placed under refilling areas to ensure that chemicals do not come into contact with the ground. Refueling stations will be located in designated areas where absorbent pads and trays will be available. The fuel tanks will also contain a lined area to ensure that accidental spills do not occur. Drip pans or other collection devices will be placed under the equipment at night to capture drips or spills. Equipment will be inspected daily for potential leakage or failures. Hazardous materials such as paints, adhesives and solvents, will be kept in an approved locker or storage cabinet.

38. The holder will ensure that the all health and safety and emergency plans to be required for employees and contractors during construction, operations, and decommissioning of the authorized facility will comply with the Occupational Safety and Health Standards provided in federal regulation 29 CFR, Part 1910, as well as with applicable state and local occupational health and safety regulations.
39. The holder shall notify FAA by filing FAA Form 7460 at least 30 days before construction is to begin or the date that an application for construction permit is to be filed.
40. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the Authorized Officer.
41. The Holder shall mark the exterior boundaries of the right-of-way with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the holder. The holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
42. The holder shall conduct all activities associated with construction, operation, maintenance and decommission of this right-of-way lease/grant within its authorized limits.
43. The holder shall not violate applicable air standards or related facility sitting standards established by or pursuant to applicable federal, state, or local laws or regulations. The holder shall be responsible for dust abatement within the limits of the right-of-way lease/grant and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the right-of-way.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the holder.

Prior to relinquishment, abandonment, or decommission of this right-of-way, the holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.

During excavation, backfilling, and contouring, the disturbed soil shall be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

44. The holder shall comply with all applicable local, state, and federal air, water, hazardous

substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of this right-of-way), the United States against any liability arising from the holder's use or occupancy of the right-of way, regardless of whether the holder has actually developed or caused development to occur on the right-of-way, from the time of the issuance of this right-of-way to the holder, and during the term of this right-of-way lease/grant. This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the holder, its agents, contractors, or third parties. If the liability is caused by third parties, the holder will pursue legal remedies against such third parties as if the holder were the fee owner of the right-of-way.

Notwithstanding any limits to the holder's ability to indemnify and hold harmless the United States which may exist under state law, the holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the holder's use or occupancy of the right-of way regardless of whether the holder has actually developed or caused development to occur on the right-of-way from the time of the issuance of this right-of-way to the holder and during the term of this right-of-way lease/grant.

45. Mineral material generated, and not needed for construction or development activities within the authorized limits of the right-of-way lease/grant, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of in place excess mineral material. All mineral material generated needs to be used on site within the right-of-way lease/grant area or stockpiled on site for sale by the BLM.
46. If technologies become available that are approved by the Federal Aviation Administration (FAA), the BLM authorized officer may require an evaluation of the installation of an audio visual warning system (AVWS) for aircraft detection and warning to reduce night lighting impacts from wind turbines located within the authorization. If an AVWS is authorized by the FAA and determined by the BLM authorized officer to be cost effective, the BLM authorized officer may require the installation of an AVWS as a condition of the authorization.
47. The holder and the Department of Defense (DOD) have agreed to pursue negotiations of a mutually acceptable Wind Turbine Curtailment Agreement relating to the operation of the wind project. The holder will provide the BLM authorized officer a copy of any Wind Turbine Curtailment Agreement jointly signed by the DOD and the holder. The holder shall comply with the terms and conditions of the signed Wind Turbine Curtailment Agreement. In the event other more effective mitigation options are developed in the future, then, where applicable, the DOD will no longer require the holder to adhere to the terms of any mutually negotiated agreement to curtail wind turbine operations.

48. The Holder will comply with the terms and conditions of the Biological Opinion File No. 84320-2012-F-0211 for this project on file at the Bureau of Land Management, Las Vegas Field Office and included below.

RMP 1: BLM shall ensure the level of incidental take anticipated in this biological opinion is commensurate with the analysis contained herein.

Terms and Conditions:

The following terms and conditions implement RPM 1:

- 1.a. To ensure that the conservation measures are effective and properly implemented, the Service shall be informed immediately upon discovery of a desert tortoise that has been killed or injured as a result of project activities. At that time, and in coordination with the Service, BLM must review the circumstances surrounding the incident to determine whether additional protective measures are required. Project activities may continue pending outcome of the review, provided the conservation measures included as part of the proposed action (see Conservation Measures section) and the terms and conditions in this biological opinion have been and continue to be fully implemented.
- 1.b. We do not expect that take, in the form of capture and handling, required to move desert tortoises out of harm's way during construction and O&M activities will result in mortality or injury of any individuals. If desert tortoise mortalities and injuries exceed thresholds identified in Table 3, BLM must reinitiate consultation on the proposed action. This term and condition only applies to clearance of the project sites for construction and does not apply to the relocation of desert tortoises out of harm's way.
- 1.c. BLM shall coordinate with the Service to develop a monitoring program to determine long-term project impacts on desert tortoise occurrence and distribution in the Action Area.

RPM 2: BLM shall ensure that desert tortoises and their eggs in harm's way are located, properly handled, and moved to safety.

Terms and Conditions:

- 2.a. A desert tortoise education program shall be presented by an authorized desert tortoise biologist to all personnel onsite during construction activities. This program will contain information concerning the biology and distribution of the desert tortoise, its legal status and occurrence in the project area, the definition of take and associated penalties, measures designed to minimize the effects of construction activities, the means by which employees can facilitate this process, and reporting requirements to be implemented when desert tortoises are encountered.

- 2.b. A designated field contact representative (FCR) will be assigned to the construction phase of the SWEF; additional FCRs will be assigned for the linear project components including the transmission line on the BLM ROW. Authorized desert tortoise biologists and the FCRs shall be onsite during all construction activities to ensure compliance with this biological opinion, including avoidance of inadvertently harming any desert tortoises that may wander onto the construction site. The authorized desert tortoise biologist and FCRs shall be responsible for: 1) enforcing the litter-control program; 2) ensuring that desert tortoise habitat disturbance is restricted to authorized areas; 3) ensuring that all equipment and materials are stored within the boundaries of the construction zone or within the boundaries of previously-disturbed areas or designated areas; 4) ensuring that all vehicles associated with construction activities remain within the proposed construction zones; and 5) ensuring compliance with the conservation measures of this biological opinion.

Potential authorized desert tortoise biologists must submit their statement of qualifications to the Service's Nevada Fish and Wildlife Office for approval, allowing a minimum of 30 days for Service response. The statement form is available on the internet at: http://www.fws.gov/nevada/desert_tortoise/auth_dt_form.htm.

Within 3 days of employment or assignment, the Applicant or BLM, shall provide the Service with the names of FCRs and biological monitors who assisted the authorized desert tortoise biologist.

- 2.c. Prior to surface-disturbing activities, authorized desert tortoise biologists potentially assisted by project monitors, shall conduct a clearance survey to locate and remove all desert tortoises from areas to be disturbed or harm's way using techniques providing full coverage of all areas. Two passes of complete coverage will be accomplished. The authorized desert tortoise biologists shall also capture, handle, and relocate desert tortoises from harm's way in accordance with the Desert Tortoise Field Manual (Service 2009), as appropriate. Any desert tortoise eggs found in harm's way will be relocated from harm's way, up to 1,000 feet from the point of capture, by an authorized desert tortoise biologist in accordance with approved protocol (Service 2009). Desert tortoise burrows that occur immediately outside work areas that can be avoided by project activities shall be clearly marked or flagged to prevent crushing. Burrows occupied by adult females will be examined thoroughly for nests and eggs during the months of May through October.
- 2.d. All burrows found within areas proposed for disturbance, whether occupied or vacant, shall be excavated by an authorized desert tortoise biologist and collapsed or blocked to prevent desert tortoise re-entry. All burrows will be excavated with hand tools to allow removal of desert tortoises or desert tortoise eggs. All desert tortoise handling and excavations, including nests, will be conducted by an authorized desert tortoise biologist in accordance with Service-approved protocol (Service 2009).
- 2.e. For desert tortoises that need to be relocated out of harm's way, the tortoise should be placed out of the path of project activity as per the instructions and guidance from the authorized desert tortoise biologist.

- 2.f. If a tortoise is found and relocated to a safe area, an authorized desert tortoise biologist, biological monitor, or FCR shall inform workers in the area to be particularly watchful for the tortoise as it may return to the work area.
- 2.g. Areas underneath parked project vehicles and equipment will be inspected for desert tortoises before moving them.
- 2.h. Vehicle speeds within the project area will not exceed those identified in the conservation Measure 10 proposed under the *Description of the Proposed Action*. Speed limits will be clearly marked and all workers will be made aware of these limits.
- 2.i. Water used for fugitive dust control will not be allowed to pool on access roads or other project areas outside the fenced area, as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks will be repaired to prevent pooling water.
- 2.j. Should any desert tortoise be injured or killed, all activities that have the potential for take will be halted, features that present a danger to desert tortoises (e.g., open trenches) will be secured, and the FCR and/or authorized desert tortoise biologist immediately contacted, who will notify the appropriate office of the Service.
- 2.k. BLM and the Applicant shall implement appropriate measures, which may include measures not specified in this biological opinion, to ensure that desert tortoises captured and moved, or occurring in harm's way do not die or become injured as a direct or indirect (e.g., predation, maladjustment to release areas) result of the project. Measures in this biological opinion may require modification, and additional measures may be necessary in response to conditions and situations that pose a threat to the well-being of desert tortoises, in consultation with the Service.

RMP 3: BLM shall ensure implementation of measures to minimize predation on desert tortoises by ravens or other desert tortoise predators attracted to the action area.

Terms and Conditions:

- 3.a. A litter control program shall be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit fox, coyotes, and common ravens. Trash and food items will be disposed properly in predator-proof containers with re-sealing lids. Trash containers will be emptied and construction waste will be removed daily from the project area and disposed of in an approved landfill.
- 3.b. The Applicant will monitor for the presence of ravens and other potential human-subsidized predators will be conducted and a control plan will be implemented if predator densities substantially increase in the vicinity of the facility, in coordination with the Service. In addition to trash management, the Applicant will implement BMPs to discourage the presence of ravens onsite including elimination of available water sources,

designing structures to discourage potential nest sites, use of hazing to discourage raven presence, and active monitoring of the site for presence of ravens.

3.c. Dogs will be prohibited in all project work areas.

RMP 4: BLM shall ensure implementation of measures to minimize loss and long-term degradation of desert tortoise habitat, such as soil compaction, erosion, crushed vegetation, or introduction of non-native invasive plants or weeds as a result of project activities.

Terms and Conditions:

4.a. Perennial native vegetation will be flagged and avoided to the maximum extent practicable.

4.b. Cross-country travel and travel outside designated areas shall be prohibited.

4.c. The Applicant and BLM will coordinate to salvage and relocate cacti, yuccas, and shrubs on linear ROWs and plant them back on temporarily disturbed portions of the ROWs.

4.d. All work area boundaries will be conspicuously staked, flagged, or otherwise marked to minimize surface disturbance activities. All workers, equipment, vehicles, and construction materials shall remain within the ROW, existing roads, and designated areas. Staging areas will be located in previously-disturbed areas whenever possible.

4.e. The Applicant will develop a habitat restoration plan to be implemented for all temporary disturbances associated with construction of the project to be approved by BLM and the Service.

4.f. The proposed Weed Management Plan will be developed and implemented (Conservation Measure 2) and will be approved by BLM and the Service.

4.g. Final power transmission tower and associated spur road locations will be adjusted to avoid potentially active tortoise burrows.

4.h. Prior to surface-disturbing activities associated with the SWEF, BLM shall collect remuneration fees for compensation of desert tortoise habitat loss (Appendix A). Remuneration fees shall be used for management actions, as identified by the BLM and Service, expected to promote recovery of the desert tortoise over time. Actions may involve habitat acquisition, population or habitat enhancement, increasing knowledge of the species' biological requirements, reducing loss of individual animals, documenting the species status and trend, and preserving distinct population attributes.

BLM estimates that 382 acres of non-critical habitat and 7 acres of critical habitat will be disturbed. The current rate is \$824 per acre of disturbance outside desert tortoise critical habitat. The fees will be indexed for inflation based on the Bureau of Labor

Statistics Consumer Price Index for All Urban Consumers (CPI-U) and becomes effective March 1 of each year. The next adjustment will occur March 1, 2013. Information on the CPI-U can be found on the internet at: <http://www.bls.gov/news.release/cpi.toc.htm>. Total fees for project disturbance of desert tortoise non-critical habitat will be (382 acres x \$824) \$314,768.

For disturbance of critical habitat on BLM lands, the fee would be assessed at the rate of (4 x \$824) \$3,296 per acre of disturbance (Hastey et al. 1991). Total fees for project disturbance of desert tortoise critical habitat will be (7 acres x \$3,296) \$23,072. This fee will be paid directly to BLM. The payment shall be accompanied by the Section 7 Fee Payment Form and completed by the payee. Payment shall be certified check or money order payable to BLM, and delivered to:

DOI/BLM
ATTN: Information Access Center
The Bureau of Land Management
1340 Financial Boulevard
Reno, Nevada 89502
Contact: (775) 861-6400

RMP 5: BLM shall ensure implementation of measures to ensure compliance with the RPMs, Terms and Conditions, reporting requirements, and reinitiation requirements contained in this biological opinion.

Terms and Conditions:

- 5.a. BLM will hold a preconstruction meeting with Duke Energy and the compliance inspection contractor (CIC) to discuss implementation of the terms and conditions of the biological opinion.
- 5.b. Construction and O&M reporting requirements: BLM will be responsible for providing immediate notification to the Service of any desert tortoise mortality or injury that occurs during construction or O&M activities.

The authorized desert tortoise biologist shall record each observation of desert tortoise handled in the tortoise monitoring reports. Information will include the following: location (GPS), date and time of observation, whether desert tortoise was handled, general health and whether it voided its bladder, location desert tortoise was moved from and location moved to, unique physical characteristics of each tortoise, and effectiveness and compliance with the desert tortoise protection measures.

BLM will be responsible for providing a final report within 90 days of completion of the construction activities of the SWEF to the Service reports shall be provided to the Service during O&M activities for the life of the facility. Specifically, these reports must include Table 4 (see below), the information described above, and information on any instances when desert tortoises were killed, injured, or captured and handled; the circumstances of such incidents; and any actions undertaken to prevent similar

incidents from reoccurring. Additional information regarding the effectiveness of minimization measures and RPMs of this biological opinion should be included in the annual report.